

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Virginia Mary Bunting v Edwin Harold Bunting**
Docket No. **278472**
L.C. No. **00-002853-DO**

William C. Whitbeck, Chief Judge, acting under MCR 7.201(B)(3), MCR 7.203(F)(1), and 7.216(A)(10), orders:

The motion for reconsideration of the October 15, 2007 order is GRANTED and the claim of appeal is REINSTATED. The claim of appeal is DISMISSED for lack of jurisdiction because the order being appealed is a postjudgment order that does not affect the custody of a minor. MCR 7.202(6)(a)(i), MCR 7.202(6)(a)(iii) and MCR 7.203(A)(1). The order also does not fall within MCR 7.202(6)(a)(iv). If it was the intent of the Supreme Court to make every postjudgment order that assessed attorney fees be a final order, the court rule would read, "a postjudgment order awarding or denying attorney fees and costs. However, by adding the language "under MCR 2.403, MCR 2.405, MCR 2.625 or other law or court rule" the Supreme Court was limiting the type of postjudgment order regarding attorney fees. MCR 2.403, MCR 2.405, MCR and 2.625 all involve attorney fees and costs incurred prior to entry of the MCR 7.202(6)(a)(i) final order. Pursuant to the principle of *ejus generis* when a nonspecific phrase follows specific examples, the unnamed must be of the same nature as the specifically named items. That means the "other law or court rule" must involve attorney fees and costs incurred prior to the entry of the MCR 7.202(6)(a)(i) final order. Examples would include attorney fees and costs under the Elliott-Larsen Act, Open Meeting Act, Freedom of Information Act, and the like. As a result, appellant may challenge the order by filing an application for leave to appeal.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 15 2007

Date

Sandra Schultz Mengel
Chief Clerk